REMARKS

Claims 1 and 4 through 20 are in the application.

Claims 2 and 3 were previously cancelled.

Figs 1 and 8-10 stand objected to. Replacement drawings are filed herewith. All drawing figures are being replaced with drawing figures that are of cleaner and clearer quality. FIG. 1 has been amended to include labeling in the boxes. No new matter has been added

Claims 1 and 4-20 stand objected to because of an informality in claim 1. Claim 1 has been amended to correct the informality and in addition to provide consistent antecedent basis. No new matter has been added.

Claims 1, 4-7 and 18-20 stand rejected under 35 USC 102(e) over Lichter et al. (US Patent 6,159,147.

Claims 8-16 stand rejected under 35 USC 103(a) as unpatentable over Lichter et al in view of Koning et al (US Patent 4,730,6190).

Claim 17 stands rejected under 35 USC 103(a) as unpatentable over Lichter et al in view of Koning et al and Klotz (US Patent 5,725,563).

35 USC 102 rejection

Claim 1 recites:

providing non-invasive test sensors for a subject;

coupling said test sensors to said subject;

coupling said test sensors to impedance measuring apparatus having access to the Internet;

operating said apparatus to automatically obtain test measurement impedance data from said test sensors;

uploading said test measurement impedance data via the Internet to a location remote from said subject;

providing a central server at said remote location;

processing said test measurement impedance data at said central server to produce processed impedance cardiography data;

downloading said processed impedance cardiography data from said central server to said apparatus, and

displaying said processed impedance cardiography data at said apparatus.

It is respectfully submitted that the Examiner is misreading the primary reference Lichter. Lichter is directed to providing a multifunctional pc based data collection and processing system.

All processing of collected sensor data is performed at the local pc. The clear disadvantage of such an arrangement is that it mandates that a pc be utilized thereby significantly raising the cost of the data collection and processing.

Claim 1 recites that **test measurement impedance data** is uploaded via the Internet to a location remote from the subject or patient. The Examiner points to the description of the embodiment of Lichter shown in FIG. 29 described in col. 16. The Examiner erroneously points to the description as describing uploading test measurement impedance data. In fact, the embodiment shown in FIG. 29 and described at col. 16 utilizes "a real-time biological data processing card 521." The card processes the raw data and **it is the processed data** that is uploaded over the Internet to remote locations.

Claim 1 further recites:
providing a central server at said remote location;

The Examiner points to col. 16, lines 23 to 28 as apparently describing a server at a remote location. No such server is described in the cited passage.

Claim 1 continues with:
processing said test measurement impedance data at said central server to produce processed impedance cardiography data.

The Examiner again points to col. 16, lines 7-23 and col. 8, lines 7-21 as describing processing test measurement impedance data at the central server. However, **no processing of test measurement data at a remote central server to produce impedance cardiography data is described in Lichter.**

Lichter teaches away from the present invention in that all processing of test data is done at the local personal computer 27 described at col. 8 along with the "biological data processing pc card." It is also pointed out to the Examiner that the passage at col. 8 states:

> "According to the present invention, various inter-changeable real-time biological processing PC cards can configure the host computer 27 into various collecting, processing, and monitoring modes, including …bio-impedance…."

Yet further, claim 1 recites:

downloading **said processed impedance cardiography data** from said central server to said apparatus, and
displaying said processed impedance cardiography data at said apparatus

Since Lichter does not process test measurement impedance data at a remote server to produce processed impedance cardiography data, Lichter does not show or describe the downloading step.

Even further, since Lichter does not download "processed impedance cardiography data from said central server" Licther does not display "said processed impedance cardiography data" at the

data collection apparatus since "said processed impedance cardiography data" is specific data processed at a remote central server.

For all the above reasons, Lichter does not show or describe Applicants novel invention and in fact teaches away from Applicant's invention.

Furthermore, since all the claims in the application depend from claim 1 and add further limitations, all the claims in the application are likewise not shown, taught or made obvious by Lichter alone or in combination with other references taken singly or in combination.

In addition, the Examiner misreads Lichter et al with respect to claims 5-7. The Examiner is requested to carefully read Col. 9, line 65 through Col. 10, line 9 and the description of Fig 29 at col. 16. Lichter does not show or describe a remote server as claimed by applicant.

For this additional reason, claims 5-7 are not shown or described by Lichter et al.

35 USC 103 rejections

Claims 8-16 stand rejected under 35 USC 103(a) over Lichter et al in view of Koning et al.
The Examiner cites Koning et al for "storing processed impedance cardiography data in a database."

It is respectfully submitted that the Examiner has misread Koning et al. Koning et al is directed to a cardiac pacemaker. Koning et al is silent on "impedance cardiograph." Koning et al is silent on providing a database.

Nothing in Koning et al supports the Examiner's description of what is taught. The passages cited in Koning et al do not mention processed impedance cardiography data nor do they identify any database.

For these additional reasons, Claims 8-16 are not shown, taught or made obvious by the references taken singly or in combination.

The Examiner rejects claim 17 under 35 USC 103 (a) over Lichter and Koning further in view of Klotz .

The Examiner cites Klotz as "encrypting the second processed impedance cardiography data at said central server and decrypting the encrypted data at the second apparatus."

Claim 17 depends from claim 1 and claim 8. For the same reasons that claims 1 and 8 are not shown, taught or made obvious by the references, claim 17 is likewise not shown, taught or made obvious by the references taken singly or in combination.

Klotz teaches the use of encryption on a smart card that is read by a microprocessor. There is no suggestion in Klotz or in any of the references that encryption may be used to encrypt impedance cardiography data at a central server and decrypting it at the impedance measuring apparatus.

For this additional reason, claim 17 is not shown, taught or made obvious by the references taken singly or in combination

The Examiner is reminded that he must take each reference for what it fairly teaches within its four corners.

The Examiner's attention is drawn, in particular, to MPEP 706.02(j) and MPEP 2143 and the **three basic criteria that must be set out to establish a prima facie case of obviousness.**

The first criteria is that "there must be some suggestion of motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings."

"Second, there must be a reasonable expectation of success."

"Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success **must both be found in the prior art and not based on applicants disclosure.**" MPEP 2143 quoting *In re Vaeck*

MPEP 706.02(j) quotes *Ex Parte Clapp*: "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention, or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to be obvious in light of the teachings of the references."

MPEP 2143.01 clearly points out that the "level of skill in the art cannot be relied upon to provide the suggestion to combine references" *Al-Site Corp. v. VSI Int'l Inc.*

MPEP 2143.01 further provides the clear guidance that: "A statement that modifications of the prior art to meet the claimed invention would have been 'well within the ordinary skill of the art at the time the claimed invention was made' because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness **without some objective reason to combine the teachings of the references.**" citing E*x parte Levengood*

MPEP 2143.01 further clearly provides the guidance that the proposed modification of the prior art cannot change the principle of operation of the prior art reference.

Accordingly, none of the claims in the application are shown, taught or made obvious by any of the references of record taken singly or in any combination.

In view of the foregoing comments, it is believed that all the claims presently in the application are in condition for allowance. Reexamination and reconsideration are requested. It is further requested that the claims be allowed and that this application be passed to issue. An early notice of allowance would be appreciated.

Respectfully submitted,
DONALD J. LENKSZUS, P.C.

Dated: November 9, 2006

By: /Donald J. Lenkszus/
DONALD J. LENKSZUS, Reg. No.28,096
P. O. BOX 3064
CAREFREE, AZ 85377
Telephone: (602) 463-2010